



Proposed Legislative Amendments to Michigan Mold Lien Act and Michigan Special Tools Lien Act

Presented by

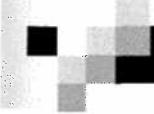
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Monday, January 12, 2009

Current Lien Acts

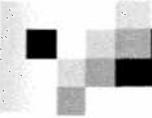
- MMLA - MCL 445.611 et. al. (See Tab 1)
- MSTLA - MCL 570.541 et. al. (See Tab 2)
- Enacted in 2002 to remedy longstanding problem of collecting payment when no longer in possession of tool/mold.
- (See Tab 3 – House Leg. Analysis)



Perfecting a Lien Under the Current Lien Acts

- Permanent recording on tool/mold
- File UCC Financing Statement

- ## *Begining of the Amendment*
- ## *Movement*
- Rep. Fulton Sheen's February 2008 House Bill 5764
and loopholes in the current lien Acts.
 - House Bill 5764 did not address all of the obstacles and loopholes in the current lien Acts.
 - Begain process of setting forth all of the major obstacles and loopholes to incorporate into new proposed amendments.



Obstacles and Loopholes of Current Lien Acts and Recommended Solutions

A. **Permanent Recording Requirement**

1. Problems

- a. Recording can and is removed (**See Tab 5**).
- b. Contracts do not allow tool shop information (**See Tab 6**).

2. Solution and Recommendation

A. Permanent Record
Requirement

Obstacles and Loopholes of Current Lien
Acts and Recommended Solutions

- a. Eliminate Requirement.
- b. Attachment upon delivery.



Obstacles and Loopholes of Current Lien Acts and Recommended Solutions

B. 90 Day Waiting Period

1. Problems

- a. No Negotiation.
- b. New Tools can be built.
- c. Extends payment terms even further, no incentive to pay prior to termination of 90 day period.

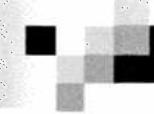
- Change to 45 Day Waiting Period.

2. Solution and Recommendation

B. 90 Day Waiting Period

Obstacles and Loopholes of Current Lien
Acts and Recommended Solutions





Obstacles and Loopholes of Current Lien Acts and Recommended Solutions

c. **Possession v. Immediate Possession**

1. Problem

- Acts currently state “possession”.

- Change to „Imediate Possession“.

2. Solution and Recomendation

c. Possession v. Imediate Possession

Obstacles and Loopholes of Current Lien
Acts and Recommended Solutions





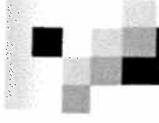
Obstacles and Loopholes of Current Lien Acts and Recommended Solutions

D. Attorney Fees and Costs

1. Problem

- Acts currently do not provide for recovery of attorney fees or costs.

- D. Attorney Fees and Costs**
- Obstacles and Loopholes of Current Lien
Acts and Recommended Solutions
- 2. Solution and Recomendation**
- a. Include Attorney Fee and Cost
b. Incentive to pay amounts owed
Provision.



Obstacles and Loopholes of Current Lien Acts and Recommended Solutions

E. **Waiver of Rights Language**

1. Problem

- Tier One Suppliers and OEMs Contracts requiring Tool/Mold Shops to Waiver Statutory Rights (**See Tab 7**).

policy.

- Any waiver language to be considered void and unenforceable as against public

2. Solution and Recommendation

E. Waiver of Rights Language

Obstacles and Loopholes of Current Lien
Acts and Recommended Solutions





Obstacles and Loopholes of Current Lien Acts and Recommended Solutions

F. Application of Other Laws

1. Problem

- Contracts causing Tool/Mold Shops to be subject to other laws rather than MMLA or MSTLA.

- F. Application of Other Laws**
- Obstacles and Loopholes of Current Lien
Acts and Recommended Solutions
- Any application of another law to be considered void and unenforceable as against public policy.



Proposed Amendments

- See Tabs 8 and 9.

- Ohio Lien Law has all of the proposed amendments within its current form.

Not Re-Creating the Wheel



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**THANK YOU
FOR ATTENDING**

